

REMARKS

Claim Objections

Claims 16-18 are objected to under 37 CFR 1.75 as being a substantial duplicate of claim 1. Applicant respectfully requests reconsideration of the rejection. With respect to claim 16, claim 16 is broader than claim 1 in that claim 16 specifically sets forth the claimed subject matter including mutants of the designated ATCC Accession Numbers. As such, it is respectfully submitted that there is a difference in claim scope which warrants inclusion of claim 16 in view of claim 1. In addition, to the extent claim 18 depends from claim 16, for the above reasons, claim 18 is also believed proper and that it is not a substantial duplication. Further, claim 18 is directed to polyaromatic hydrocarbons which is a narrower class of hydrocarbons than the petroleum hydrocarbons referenced in claim 1.

With respect to claim 17, Applicant notes that claim 17 only sets forth a subset of three microorganisms and is therefore of a narrower scope. In addition, there is a limitation that the microorganisms are producing a surfactant. Claim 17 and claim 1 have a much different claim scope to the extent claim 17 is narrowly drawn to a grouping of three ATCC deposited pure cultures compared to the twelve cultures in the Markush grouping of claim 1. Accordingly, reconsideration of the rejection is respectfully requested.

Claims 1 and 16-18 are rejected under 35 USC §112 first paragraph as containing subject matter not described in the specification in such a way as to enable one skilled in the art to make or use the invention. As noted in the specification, the claimed microorganisms have been deposited with the ATCC in Rockville, Maryland, which is an adherent to the Budapest Treaty. Attached as a separate declaration by the Attorney of Record is a statement indicating that the specific strains will be irrevocably and without restriction or condition released to the public upon issuance of a patent.

Applicant also respectfully submits that the specification meets the requirements of 37 CFR 1.809(d) to the extent the specification provides the accession number for each deposit, the date of the deposit, a description of the biological material, and the name and address of the repository.

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Applicant respectfully submits that the claims and application are now in condition for allowance.

Please charge any additional fees required by this Amendment to Deposit Account No. 50-3172.

Respectfully submitted,

J. BENNETT MULLINAX, LLC

A handwritten signature in black ink, appearing to read 'J. B. Mullinax', written in a cursive style.

J. Bennett Mullinax

Reg. No. 36,221